

Trent M. Gardner (I.D. # 7477)
Jeffrey J. Tierney (I.D. # 12989)
GOETZ, BALDWIN & GEDDES, P.C.
35 North Grand
P.O. Box 6580
Bozeman, MT 59771-6580
Phone: (406) 587-0618
Fax: (406) 587-5144
Email: tgardner@goetzlawfirm.com
jtierney@goetzlawfirm.com

Joseph V. Womack (I.D. # 2641)
WALLER & WOMACK, P.C.
Suite 805 First Bank Building
303 North Broadway
Billings, Montana 59101
Telephone: (406) 252-7200
Facsimile: (406) 252-4266
Email: jwomack@jvwlaw.com

Attorneys for Joseph V. Womack, Trustee

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA**

In re

JOHN HENRY SCHNEIDER,

Debtor.

**JOSEPH V. WOMACK, AS CHAPTER
7 TRUSTEE FOR THE BANKRUPTCY
ESTATE OF JOHN HENRY
SCHNEIDER,**

Plaintiff,

v.

**JOHN HENRY SCHNEIDER and
MICHELLE R. SCHNEIDER;**

Defendants.

Case No. 14-61357

Adversary No. 17-21

**TRUSTEE'S RESPONSE TO
DEFENDANTS MOTION FOR LEAVE
TO ASSERT COUNTERCLAIMS
AGAINST TRUSTEE AND ESTATE**

Joseph V. Womack, Chapter 7 Trustee for the Bankruptcy Estate of John Henry Schneider (“Trustee”), through counsel, files the following response to Defendants Motion for Leave to Assert Counterclaims Against Trustee and Estate (Doc. 8).

The *Barton* Doctrine serves the important function of allowing the Judge to thwart frivolous litigation against Trustees, such as Defendants’ counterclaims, at the earliest possible stage. However, Trustee agrees with Defendants that leave of this Court is not necessary for Defendants to pursue counterclaims against the Trustee in this Court. Pursuant to 9th Circuit precedent, leave is only required if Defendants were to attempt to bring an action against the Trustee in another court.

While Trustee would prefer to have this Court act as a gatekeeper regarding Defendants’ frivolous counterclaims, such action is not appropriate pursuant to binding 9th Circuit precedent.

DATED this 1st day of August, 2017.

GOETZ, BALDWIN & GEDDES, P.C.

By: /s/Trent M. Gardner
Trent M. Gardner/Jeffrey J. Tierney
Attorneys for Trustee Joseph V. Womack

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that on August 1, 2017, a copy of the foregoing pleading was served (i) by electronic means pursuant to LBR 9013-1(d)(2) on the parties noted in the Court's ECF transmission facilities and/or (ii) by mail on the following parties: none

/s/Trent M. Gardner

Trent M. Gardner
Attorneys for Trustee Joseph V.
Womack